

**IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.

Plaintiff

v.

WORLD AVENUE USA, LLC
successor by merger to NIUTECH, LLC.,
DBA "THE USEFUL," ET AL.

Defendants

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Case No. PJM 08 cv 0921

**THIRD-PARTY DEFENDANT, HYPERTOUCH, INC.'S OPPOSITION TO WAUSA'S
SUMMARY BRIEF ON ITS
MOTION TO COMPEL DOCUMENTS, AT ECF 731**

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Third-party Defendant Hypertouch, Inc. responds to WAUSA's summary brief at ECF 731 (motion at ECF 694). Hypertouch served responses to the 2010 document requests, with documents, November 15, 2010. WAUSA's motion to compel was served on April 26, 2011 without any extension of time. The motion is thus fatally late.

Requests 1 and 5, communications: produced. Furthermore, WAUSA deposed Joseph Wagner on July 8, 2011, and barely touched on this topic.

Transcripts (no. 5) for "sixty (60)" lawsuits. The number is exaggerated; but all transcripts obtained have been produced. Small claims suits and many others had no transcripts.

"Proceeds" (no. 6): The non-confidential proceeds of Hypertouch are in HYP0014725, showing the only revenues from BSI, which occurred in the year 2000; this was addressed in the deposition of Dr. Joseph Wagner. The confidential settlements are unrelated to BSI or the relationship.

Re-direction to BSI (no. 9) – Documents Hyp-WAUSA-0019580-0019582, 0019617, and 0019260, are responsive. The redactions contain routing information unrelated to BSI, pertaining to Hypertouch's users, and are protected under California Consumer Protection laws governing privacy.

Services by Hypertouch to BSI (no. 10). Over 96,000 Bates stamped pages of comprehensive documentation, plus 4 DVD's of data (zone files) has been produced in response.

No. 11, registration, etc. of hypertouch.com – documents produced. This was covered in the deposition of Dr. Wagner. No. 12(a) (server purchases) – These documents were produced for the relevant time period, embracing the height of the emails at issue. (AMEX reports from January 2004 to June 2008; Hyp-WAUSA-0019110-115). No purchases related to the emails at issue have occurred since June 2008. A new server in 2010 is unrelated to that activity.

No. 12(b) (specifications for the Hypertouch servers). Hyp-WAUSA-0019116-126 was produced. Redactions at pages 19121-23 protect confidential customer/user information. Dormant websites with e-mail addresses in the source code: all documents produced.